

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:19-cv-212-FDW

ZAVIAN JORDAN,)
)
 Plaintiff,)
)
 vs.) **ORDER**
)
 CHRIS NEWMAN, et al.,)
)
 Defendants.)
)

THIS MATTER is before the Court on Defendant Chris Newman's Motion to Extend Time to File Responsive Pleading, (Doc. No. 11), on *pro se* Plaintiff's Motion for Clerk to Enter Default Judgment, (Doc. No. 12), against Defendant Miller Clint Bridges, and Defendants' Motion to Stay Pending Resolution of Criminal Case, (Doc. No. 16).

Defendant Newman's Motion seeking an extension of time in which to respond to the Complaint is granted insofar as the Motion to Dismiss, (Doc. No. 15), is accepted as timely filed.

Plaintiff's Motion for Default Judgment against Defendant Bridges will be denied because the Defendant is not in default. He was served on December 20, 2019, and received an extension of time until February 18, 2020, to respond to the Complaint. (Doc. Nos. 5, 10). Therefore, Plaintiff's Motion will be denied.

Finally, Defendants ask to stay this case pending the resolution of Plaintiff's criminal case which is currently on appeal before the Fourth Circuit Court of Appeals. Defendants explain that they have filed a Motion to Dismiss this case because Plaintiff seeks to litigate the same constitutional issues here that he challenges in his criminal case and that his claims are barred by Heck v. Humphrey, 512 U.S. 477 (1994). The Court agrees that the instant civil case should be

stayed until the criminal case is concluded. See generally Wallace v. Kato, 549 U.S. 384, 393-94 (2007). Defendants' Motion will therefore be granted. Defendants are directed to file a Notice with the Court when the criminal proceedings become final. Plaintiff's response to the Motion to Dismiss, (Doc. No. 15), will be due 30 days after Defendants file their Notice.

IT IS THEREFORE ORDERED that:

- (1) Defendant Chris Newman's Motion to Extend Time to File Responsive Pleading, (Doc. No. 11), is **GRANTED** and the Motion to Dismiss, (Doc. No. 15), is accepted as timely filed.
- (2) Plaintiff's Motion for Clerk to Enter Default Judgment, (Doc. No. 12), is **DENIED**.
- (3) Defendants' Motion to Stay Pending Resolution of Criminal Case, (Doc. No. 16), is **GRANTED**. Defendants are directed to file a Notice with the Court when the criminal proceedings become final. Plaintiff's response to the Motion to Dismiss, (Doc. No. 15), will be due 30 days after Defendants file their Notice.
- (4) The Clerk is respectfully instructed to stay this case.

Signed: February 19, 2020


Frank D. Whitney
Chief United States District Judge
